

By: Oliverson

H.B. No. 3760

A BILL TO BE ENTITLED

AN ACT

relating to information regarding perinatal palliative care,
regulation of abortion, and the availability of certain defenses to
prosecution for homicide and assault offenses; providing an
administrative penalty; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. LEGISLATIVE FINDINGS

SECTION 1.01. The legislature finds that:

(1) Texas has a compelling state interest in
protecting all Texans from discrimination based on sex, race, and
disability; and

(2) Texas enforces prohibitions against
discrimination based on sex, race, and disability in various areas,
including housing, employment, education, insurance, and health
program and service provision.

ARTICLE 2. PROVISIONS EFFECTIVE SEPTEMBER 1, 2021

SECTION 2.01. Chapter 161, Health and Safety Code, is
amended by adding Subchapter X to read as follows:

SUBCHAPTER X. PERINATAL PALLIATIVE CARE

Sec. 161.701. PURPOSE OF SUBCHAPTER. The purpose of this
subchapter is to ensure that a pregnant woman who receives a
diagnosis of a life-threatening disability of the woman's preborn
child is informed of the availability of perinatal palliative care.

Sec. 161.702. DEFINITION. In this subchapter, "perinatal

1 palliative care" means the provision of comprehensive, supportive
2 care to reduce the suffering of a pregnant woman, her preborn child,
3 and her family, from diagnosis of the preborn child's
4 life-threatening disability through the delivery and possible
5 death of the child as a result of the life-threatening disability.
6 The term includes medical, social, and mental health care,
7 including counseling and health care provided by maternal-fetal
8 medical specialists, obstetricians, neonatologists, anesthesia
9 specialists, specialty nurses, clergy, social workers, and other
10 individuals focused on alleviating fear and pain and ensuring the
11 pregnant woman, her preborn child, and her family experience a
12 supportive environment.

13 Sec. 161.703. PERINATAL PALLIATIVE CARE INFORMATIONAL
14 MATERIALS. (a) The commission shall develop perinatal palliative
15 care informational materials and post the materials on the
16 commission's Internet website. The materials must include:

17 (1) a description of the health care and other
18 services available through perinatal palliative care; and

19 (2) information about medical assistance benefits
20 that may be available for prenatal care, childbirth, and perinatal
21 palliative care.

22 (b) The commission shall develop, regularly update, and
23 publish a geographically indexed list of all perinatal palliative
24 care providers and programs in this state. The commission may
25 include perinatal palliative care providers and programs in other
26 states that provide care to residents of this state but may not
27 include an abortion provider, as defined by Section [171.002](#), or an

1 affiliate, as defined by Section 2272.001, Government Code, as
2 added by Chapter 501 (S.B. 22), Acts of the 86th Legislature,
3 Regular Session, 2019, of an abortion provider. The commission
4 shall post the list of perinatal palliative care providers and
5 programs, including contact information, on the commission's
6 Internet website and note the providers and programs that provide
7 services free of charge.

8 Sec. 161.704. PERINATAL PALLIATIVE CARE CERTIFICATION
9 FORM. The commission shall develop a form on which a pregnant woman
10 certifies that she has received the perinatal palliative care
11 informational materials and list of the perinatal palliative care
12 providers and programs described by Section 161.703.

13 Sec. 161.705. HEALTH CARE PROVIDER DUTIES ON DIAGNOSIS OF
14 PREBORN CHILD'S LIFE-THREATENING DISABILITY. A health care
15 provider who diagnoses a pregnant woman's preborn child as having a
16 life-threatening disability shall, at the time of the diagnosis:

17 (1) provide the pregnant woman with a written copy of:
18 (A) the perinatal palliative care informational
19 materials and list of the perinatal palliative care providers and
20 programs described by Section 161.703; and

21 (B) the perinatal palliative care certification
22 form described by Section 161.704; and

23 (2) obtain from the pregnant woman the signed
24 perinatal palliative care certification form and place the form in
25 the pregnant woman's medical records.

26 Sec. 161.706. EXCEPTION. A health care provider is not
27 required to provide the perinatal palliative care informational

1 materials or perinatal palliative care certification form under
2 this subchapter if the health care provider verifies the pregnant
3 woman's medical record contains a signed perinatal palliative care
4 certification form for that pregnancy as required under Section
5 161.705(2).

6 SECTION 2.02. Chapter 170, Health and Safety Code, is
7 amended by designating Sections 170.001 and 170.002 as Subchapter A
8 and adding a subchapter heading to read as follows:

9 SUBCHAPTER A. GENERAL PROVISIONS; POST-VIABILITY ABORTION

10 PROHIBITED

11 SECTION 2.03. Section 170.001, Health and Safety Code, is
12 amended by adding Subdivision (2-a) to read as follows:

13 (2-a) "Preborn child" means an unborn child as defined
14 by Section 171.061.

15 SECTION 2.04. Section 170.002, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 170.002. PROHIBITED ACTS; EXEMPTION. (a) Except as
18 provided by Subsection (b), a person may not intentionally or
19 knowingly perform or induce an abortion on a woman who is pregnant
20 with a preborn [~~viable unborn~~] child during the third trimester of
21 the pregnancy.

22 (b) Subsection (a) does not prohibit a person from
23 performing or inducing an abortion if at the time of the abortion
24 the person is a physician and concludes in good faith according to
25 the physician's best medical judgment that[+]

26 [~~(1) the fetus is not a viable fetus and the pregnancy~~
27 ~~is not in the third trimester,~~

1 ~~[(2)]~~ the abortion is necessary due to a medical
2 emergency, as defined by Section 171.002 ~~[to prevent the death or a~~
3 ~~substantial risk of serious impairment to the physical or mental~~
4 ~~health of the woman; or~~

5 ~~[(3) the fetus has a severe and irreversible~~
6 ~~abnormality, identified by reliable diagnostic procedures].~~

7 (c) A physician who performs or induces an abortion that,
8 according to the physician's best medical judgment at the time of
9 the abortion, is to abort a preborn ~~[viable unborn]~~ child during the
10 third trimester of the pregnancy shall certify in writing to the
11 commission, on a form prescribed by the commission, the medical
12 indications supporting the physician's judgment that the abortion
13 was authorized by Subsection (b) ~~[(b)(2) or (3)]. If the physician~~
14 ~~certifies the abortion was authorized by Subsection (b)(3), the~~
15 ~~physician shall certify in writing on the form the fetal~~
16 ~~abnormality identified by the physician].~~ The certification must
17 be made not later than the 30th day after the date the abortion was
18 performed or induced.

19 SECTION 2.05. Chapter 170, Health and Safety Code, is
20 amended by adding Subchapter B to read as follows:

21 SUBCHAPTER B. PREBORN NONDISCRIMINATION ACT

22 Sec. 170.051. DEFINITION. In this subchapter, "disability"
23 means:

24 (1) a physical or mental impairment that would
25 substantially limit one or more of an individual's major life
26 activities;

27 (2) an assessment referencing an individual's

1 impairment described by Subdivision (1); or

2 (3) a physical disfigurement, scoliosis, dwarfism,
3 Down syndrome, albinism, amelia, or any other type of physical,
4 mental, or intellectual abnormality or disease.

5 Sec. 170.052. DISCRIMINATORY ABORTION PROHIBITED. A person
6 may not:

7 (1) knowingly perform or induce or attempt to perform
8 or induce on a pregnant woman an abortion based on the race,
9 ethnicity, sex, or disability of the woman's preborn child,
10 including a probability of diagnosis that the child has a
11 disability; or

12 (2) use force or the threat of force to intentionally
13 injure or intimidate a person to coerce the performance or
14 inducement or attempted performance or inducement of an abortion
15 based on the race, ethnicity, sex, or disability of the woman's
16 preborn child, including a probability of diagnosis that the child
17 has a disability.

18 Sec. 170.053. CRIMINAL PENALTY. (a) A person who violates
19 Section 170.052 commits an offense. An offense under this
20 subsection is a Class A misdemeanor.

21 (b) A woman on whom an abortion is performed or induced or
22 attempted to be performed or induced in violation of Section
23 170.052 may not be prosecuted for a violation of that section or for
24 conspiracy to commit a violation of that section.

25 Sec. 170.054. LICENSE SUSPENSION OR REVOCATION. A
26 physician who violates Section 170.052 engages in unprofessional
27 conduct for which the physician's license may be suspended or

1 revoked under Chapter 164, Occupations Code.

2 Sec. 170.055. CIVIL REMEDIES. (a) A civil action may be
3 brought against a person who violates Section 170.052 by:

4 (1) the woman on whom an abortion was performed or
5 induced or attempted to be performed or induced in violation of
6 Section 170.052;

7 (2) the father of the preborn child for an abortion
8 performed or induced or attempted to be performed or induced on a
9 pregnant woman in violation of Section 170.052, unless the woman's
10 pregnancy resulted from the father's criminal conduct; or

11 (3) a maternal grandparent of the preborn child for an
12 abortion performed or induced or attempted to be performed or
13 induced in violation of Section 170.052 on a pregnant woman who was
14 less than 18 years of age at the time of the violation, unless the
15 woman's pregnancy resulted from the maternal grandparent's criminal
16 conduct.

17 (b) A person who brings an action under this section may
18 obtain:

19 (1) injunctive relief;

20 (2) damages incurred by the person, including:

21 (A) actual damages for all psychological,
22 emotional, and physical injuries resulting from the violation of
23 Section 170.052;

24 (B) court costs; and

25 (C) reasonable attorney's fees; or

26 (3) both injunctive relief and damages.

27 (c) An action for damages or injunctive relief under this

1 section must be filed:

2 (1) in a district court in the county in which the
3 woman on whom an abortion was performed or induced or attempted to
4 be performed or induced in violation of Section 170.052 resides;
5 and

6 (2) not later than the sixth anniversary of the date
7 the abortion was performed or induced or attempted to be performed
8 or induced in violation of Section 170.052.

9 (d) The damages and injunctive relief authorized by this
10 section are in addition to any other remedy available by law.

11 (e) A civil action under this section may not be brought
12 against a woman on whom an abortion is performed or induced or
13 attempted to be performed or induced in violation of Section
14 170.052.

15 SECTION 2.06. Section 171.002, Health and Safety Code, is
16 amended by adding Subdivision (3-a) to read as follows:

17 (3-a) "Preborn child" means an unborn child as defined
18 by Section 171.061.

19 SECTION 2.07. Subchapter A, Chapter 171, Health and Safety
20 Code, is amended by adding Section 171.008 to read as follows:

21 Sec. 171.008. REQUIRED DOCUMENTATION. (a) If an abortion
22 is performed or induced on a pregnant woman because of a medical
23 emergency, the physician who performs or induces the abortion shall
24 execute a written document that certifies the abortion is necessary
25 due to a medical emergency and specifies the woman's medical
26 condition requiring the abortion.

27 (b) A physician shall:

1 (1) place the document described by Subsection (a) in
2 the pregnant woman's medical record; and

3 (2) maintain a copy of the document described by
4 Subsection (a) in the physician's practice records.

5 (c) A physician who performs or induces an abortion on a
6 pregnant woman shall:

7 (1) if the abortion is performed or induced to
8 preserve the health of the pregnant woman, execute a written
9 document that:

10 (A) specifies the medical condition the abortion
11 is asserted to address; and

12 (B) provides the medical rationale for the
13 physician's conclusion that the abortion is necessary to address
14 the medical condition; or

15 (2) for an abortion other than an abortion described
16 by Subdivision (1), specify in a written document that maternal
17 health is not a purpose of the abortion.

18 (d) The physician shall maintain a copy of a document
19 described by Subsection (c) in the physician's practice records.

20 SECTION 2.08. Section [171.012](#), Health and Safety Code, is
21 amended by amending Subsection (a) and adding Subsections (g) and
22 (h) to read as follows:

23 (a) Consent to an abortion is voluntary and informed only
24 if:

25 (1) the physician who is to perform or induce the
26 abortion informs the pregnant woman on whom the abortion is to be
27 performed or induced of:

1 (A) the physician's name;

2 (B) the particular medical risks associated with
3 the particular abortion procedure to be employed, including, when
4 medically accurate:

5 (i) the risks of infection and hemorrhage;

6 (ii) the potential danger to a subsequent
7 pregnancy and of infertility; and

8 (iii) the possibility of increased risk of
9 breast cancer following an induced abortion and the natural
10 protective effect of a completed pregnancy in avoiding breast
11 cancer;

12 (C) the probable gestational age of the preborn
13 [~~unborn~~] child at the time the abortion is to be performed or
14 induced; [~~and~~]

15 (D) the medical risks associated with carrying
16 the preborn child to term; and

17 (E) the state law prohibiting abortion of a
18 preborn child solely based on the preborn child's race, ethnicity,
19 sex, or disability, as defined by Section 170.051, including a
20 probability of diagnosis that the child has a disability;

21 (2) the physician who is to perform or induce the
22 abortion or the physician's agent informs the pregnant woman that:

23 (A) medical assistance benefits may be available
24 for prenatal care, childbirth, and neonatal care;

25 (B) the father is liable for assistance in the
26 support of the child without regard to whether the father has
27 offered to pay for the abortion; and

1 (C) public and private agencies provide
2 pregnancy prevention counseling and medical referrals for
3 obtaining pregnancy prevention medications or devices, including
4 emergency contraception for victims of rape or incest;

5 (3) the physician who is to perform or induce the
6 abortion or the physician's agent:

7 (A) provides the pregnant woman with the printed
8 materials described by Section 171.014; and

9 (B) informs the pregnant woman that those
10 materials:

11 (i) have been provided by the commission
12 [~~Department of State Health Services~~];

13 (ii) are accessible on an Internet website
14 sponsored by the commission [~~department~~];

15 (iii) describe the preborn [~~unborn~~] child
16 and list agencies that offer alternatives to abortion; and

17 (iv) include a list of agencies that offer
18 sonogram services at no cost to the pregnant woman;

19 (4) before any sedative or anesthesia is administered
20 to the pregnant woman and at least 24 hours before the abortion or
21 at least two hours before the abortion if the pregnant woman waives
22 this requirement by certifying that she currently lives 100 miles
23 or more from the nearest abortion provider that is a facility
24 licensed under Chapter 245 or a facility that performs or induces
25 more than 50 abortions in any 12-month period:

26 (A) the physician who is to perform or induce the
27 abortion or an agent of the physician who is also a sonographer

1 certified by a national registry of medical sonographers performs a
2 sonogram on the pregnant woman on whom the abortion is to be
3 performed or induced;

4 (B) the physician who is to perform or induce the
5 abortion displays the sonogram images in a quality consistent with
6 current medical practice in a manner that the pregnant woman may
7 view them;

8 (C) the physician who is to perform or induce the
9 abortion provides, in a manner understandable to a layperson, a
10 verbal explanation of the results of the sonogram images, including
11 a medical description of the dimensions of the embryo or fetus, the
12 presence of cardiac activity, and the presence of external members
13 and internal organs; and

14 (D) the physician who is to perform or induce the
15 abortion or an agent of the physician who is also a sonographer
16 certified by a national registry of medical sonographers makes
17 audible the heart auscultation for the pregnant woman to hear, if
18 present, in a quality consistent with current medical practice and
19 provides, in a manner understandable to a layperson, a simultaneous
20 verbal explanation of the heart auscultation;

21 (5) before receiving a sonogram under Subdivision
22 (4)(A) and before the abortion is performed or induced and before
23 any sedative or anesthesia is administered, the pregnant woman
24 completes and certifies with her signature an election form that
25 states as follows:

26 "ABORTION AND SONOGRAM ELECTION

27 (1) THE INFORMATION AND PRINTED MATERIALS

1 DESCRIBED BY SECTIONS 171.012(a)(1)-(3), TEXAS HEALTH
2 AND SAFETY CODE, HAVE BEEN PROVIDED AND EXPLAINED TO
3 ME.

4 (2) I UNDERSTAND THE NATURE AND
5 CONSEQUENCES OF AN ABORTION.

6 (3) TEXAS LAW REQUIRES THAT I RECEIVE A
7 SONOGRAM PRIOR TO RECEIVING AN ABORTION.

8 (4) I UNDERSTAND THAT I HAVE THE OPTION TO
9 VIEW THE SONOGRAM IMAGES.

10 (5) I UNDERSTAND THAT I HAVE THE OPTION TO
11 HEAR THE HEARTBEAT.

12 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW
13 TO HEAR AN EXPLANATION OF THE SONOGRAM IMAGES UNLESS I
14 CERTIFY IN WRITING TO ONE OF THE FOLLOWING:

15 _____ I AM PREGNANT AS A RESULT OF A SEXUAL
16 ASSAULT, INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL
17 CODE THAT HAS BEEN REPORTED TO LAW ENFORCEMENT
18 AUTHORITIES OR THAT HAS NOT BEEN REPORTED BECAUSE I
19 REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT RISK
20 OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

21 _____ I AM A MINOR AND OBTAINING AN ABORTION
22 IN ACCORDANCE WITH JUDICIAL BYPASS PROCEDURES UNDER
23 CHAPTER 33, TEXAS FAMILY CODE.

24 _____ MY PREBORN CHILD [~~FETUS~~] HAS AN
25 IRREVERSIBLE MEDICAL CONDITION OR ABNORMALITY, AS
26 IDENTIFIED BY RELIABLE DIAGNOSTIC PROCEDURES AND
27 DOCUMENTED IN MY MEDICAL FILE.

1 (7) I AM MAKING THIS ELECTION OF MY OWN
2 FREE WILL AND WITHOUT COERCION.

3 (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE
4 FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY
5 LICENSED UNDER CHAPTER 245, TEXAS HEALTH AND SAFETY
6 CODE, OR A FACILITY THAT PERFORMS OR INDUCES MORE THAN
7 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

8 I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100
9 MILES OR MORE FROM THE NEAREST ABORTION PROVIDER THAT
10 IS A FACILITY LICENSED UNDER CHAPTER 245, TEXAS HEALTH
11 AND SAFETY CODE, OR A FACILITY THAT PERFORMS OR INDUCES
12 MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD, I WAIVE
13 THE REQUIREMENT TO WAIT 24 HOURS AFTER THE SONOGRAM IS
14 PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY
15 PLACE OF RESIDENCE IS:_____.

16 _____
17 SIGNATURE DATE";

18 (6) before the abortion is performed or induced, the
19 physician who is to perform or induce the abortion receives a copy
20 of the signed, written certification required by Subdivision (5);
21 and

22 (7) the pregnant woman is provided the name of each
23 person who provides or explains the information required under this
24 subsection.

25 (g) If the pregnant woman's preborn child has been diagnosed
26 with a life-threatening disability, the physician who is to perform
27 or induce the abortion shall, at least 24 hours before the abortion:

1 (1) orally and in person, inform the pregnant woman of
2 the availability of perinatal palliative care, as that term is
3 defined by Section 161.702; and

4 (2) provide the pregnant woman with a written copy of:

5 (A) the perinatal palliative care informational
6 materials and list of the perinatal palliative care providers and
7 programs described by Section 161.703; and

8 (B) the perinatal palliative care certification
9 form described by Section 161.704.

10 (h) If a pregnant woman described by Subsection (g), after
11 receiving from the physician who is to perform or induce the
12 abortion the perinatal palliative care informational materials and
13 certification form described by that subsection in the manner
14 required by that subsection, chooses to have an abortion instead of
15 continuing the pregnancy in perinatal palliative care, the
16 physician may perform or induce the abortion only after:

17 (1) the pregnant woman signs the certification form;
18 and

19 (2) the physician places the signed certification form
20 in the pregnant woman's medical records.

21 SECTION 2.09. Section [171.0121](#), Health and Safety Code, is
22 amended to read as follows:

23 Sec. 171.0121. MEDICAL RECORD. (a) Before the abortion
24 begins, a copy of the signed, written certification received by the
25 physician under Section [171.012\(a\)\(6\)](#) and, if applicable, under
26 Section 161.704 must be placed in the pregnant woman's medical
27 records.

1 (b) A copy of the signed, written certification required
2 under Sections 171.012(a)(5) and (6) and of any signed, written
3 certification required under Section 161.704 shall be retained by
4 the facility where the abortion is performed or induced until:

5 (1) the seventh anniversary of the date the
6 certification [~~it~~] is signed; or

7 (2) if the pregnant woman is a minor, the later of:

8 (A) the seventh anniversary of the date the
9 certification [~~it~~] is signed; or

10 (B) the woman's 21st birthday.

11 SECTION 2.10. Section 171.014(a), Health and Safety Code,
12 is amended to read as follows:

13 (a) The department shall publish informational materials
14 that include:

15 (1) the information required to be provided under
16 Sections 171.012(a)(1)(B), [and] (D), and (E) and (a)(2)(A), (B),
17 and (C); and

18 (2) the materials required by Sections 161.703,
19 171.015, and 171.016.

20 SECTION 2.11. The heading to Subchapter C, Chapter 171,
21 Health and Safety Code, is amended to read as follows:

22 SUBCHAPTER C. ABORTION PROHIBITED AT OR AFTER 20 WEEKS PROBABLE
23 GESTATIONAL AGE [~~POST-FERTILIZATION~~]

24 SECTION 2.12. Section 171.042, Health and Safety Code, is
25 amended by adding Subdivision (1-a) to read as follows:

26 (1-a) "Probable gestational age" means the duration of
27 a pregnancy measured by the number of weeks and days that have

1 elapsed from the first day of the pregnant woman's last menstrual
2 period out of an expected 40-week gestation.

3 SECTION 2.13. Sections 171.043, 171.044, and 171.045,
4 Health and Safety Code, are amended to read as follows:

5 Sec. 171.043. DETERMINATION OF PROBABLE GESTATIONAL
6 ~~[POST-FERTILIZATION]~~ AGE REQUIRED. Except as otherwise provided by
7 Section 171.046, a physician may not perform or induce or attempt to
8 perform or induce an abortion without, prior to the procedure:

9 (1) making a determination of the probable gestational
10 ~~[post-fertilization]~~ age of the preborn ~~[unborn]~~ child; or

11 (2) possessing and relying on a determination of the
12 probable gestational ~~[post-fertilization]~~ age of the preborn
13 ~~[unborn]~~ child made by another physician.

14 Sec. 171.044. ABORTION OF PREBORN ~~[UNBORN]~~ CHILD OF 20 OR
15 MORE WEEKS PROBABLE GESTATIONAL ~~[POST-FERTILIZATION]~~ AGE
16 PROHIBITED. Except as otherwise provided by Section 171.046, a
17 person may not perform or induce or attempt to perform or induce an
18 abortion on a woman if it has been determined, by the physician
19 performing, inducing, or attempting to perform or induce the
20 abortion or by another physician on whose determination that
21 physician relies, that the probable gestational
22 ~~[post-fertilization]~~ age of the preborn ~~[unborn]~~ child is 20 or
23 more weeks.

24 Sec. 171.045. METHOD OF ABORTION. (a) This section applies
25 only to an abortion authorized under Section 171.046(a)(1) or (2)
26 in which:

27 (1) the probable gestational ~~[post-fertilization]~~ age

1 of the preborn [~~unborn~~] child is 20 or more weeks; or

2 (2) the probable gestational [~~post-fertilization~~] age
3 of the preborn [~~unborn~~] child has not been determined but could
4 reasonably be 20 or more weeks.

5 (b) Except as otherwise provided by Section 171.046(a)(3),
6 a physician performing or inducing an abortion under Subsection (a)
7 shall terminate the pregnancy in the manner that, in the
8 physician's reasonable medical judgment, provides the best
9 opportunity for the preborn [~~unborn~~] child to survive.

10 SECTION 2.14. Section 171.046(a), Health and Safety Code,
11 is amended to read as follows:

12 (a) The prohibitions and requirements under Sections
13 171.043, 171.044, and 171.045(b) do not apply to an abortion
14 performed or induced if there exists a condition that, in the
15 physician's reasonable medical judgment, so complicates the
16 medical condition of the woman that, to avert the woman's death or a
17 serious risk of substantial and irreversible physical impairment of
18 a major bodily function, other than a psychological condition, it
19 necessitates, as applicable:

20 (1) the immediate abortion of her pregnancy without
21 the delay necessary to determine the probable gestational
22 [~~post-fertilization~~] age of the preborn [~~unborn~~] child;

23 (2) the abortion of her pregnancy even though the
24 probable gestational [~~post-fertilization~~] age of the preborn
25 [~~unborn~~] child is 20 or more weeks; or

26 (3) the use of a method of abortion other than a method
27 described by Section 171.045(b).

1 SECTION 2.15. Section 285.202(a), Health and Safety Code,
2 is amended to read as follows:

3 (a) In this section, "medical emergency" means[+
4 [~~(1)~~] a condition exists that, in a physician's good
5 faith clinical judgment, complicates the medical condition of the
6 pregnant woman and necessitates the immediate abortion of her
7 pregnancy to avert her death or to avoid a serious risk of
8 substantial impairment of a major bodily function[~~, or~~
9 [~~(2) the fetus has a severe fetal abnormality~~].

10 SECTION 2.16. Section 164.052(a), Occupations Code, is
11 amended to read as follows:

12 (a) A physician or an applicant for a license to practice
13 medicine commits a prohibited practice if that person:

14 (1) submits to the board a false or misleading
15 statement, document, or certificate in an application for a
16 license;

17 (2) presents to the board a license, certificate, or
18 diploma that was illegally or fraudulently obtained;

19 (3) commits fraud or deception in taking or passing an
20 examination;

21 (4) uses alcohol or drugs in an intemperate manner
22 that, in the board's opinion, could endanger a patient's life;

23 (5) commits unprofessional or dishonorable conduct
24 that is likely to deceive or defraud the public, as provided by
25 Section 164.053, or injure the public;

26 (6) uses an advertising statement that is false,
27 misleading, or deceptive;

1 (7) advertises professional superiority or the
2 performance of professional service in a superior manner if that
3 advertising is not readily subject to verification;

4 (8) purchases, sells, barter, or uses, or offers to
5 purchase, sell, barter, or use, a medical degree, license,
6 certificate, or diploma, or a transcript of a license, certificate,
7 or diploma in or incident to an application to the board for a
8 license to practice medicine;

9 (9) alters, with fraudulent intent, a medical license,
10 certificate, or diploma, or a transcript of a medical license,
11 certificate, or diploma;

12 (10) uses a medical license, certificate, or diploma,
13 or a transcript of a medical license, certificate, or diploma that
14 has been:

15 (A) fraudulently purchased or issued;

16 (B) counterfeited; or

17 (C) materially altered;

18 (11) impersonates or acts as proxy for another person
19 in an examination required by this subtitle for a medical license;

20 (12) engages in conduct that subverts or attempts to
21 subvert an examination process required by this subtitle for a
22 medical license;

23 (13) impersonates a physician or permits another to
24 use the person's license or certificate to practice medicine in
25 this state;

26 (14) directly or indirectly employs a person whose
27 license to practice medicine has been suspended, canceled, or

1 revoked;

2 (15) associates in the practice of medicine with a
3 person:

4 (A) whose license to practice medicine has been
5 suspended, canceled, or revoked; or

6 (B) who has been convicted of the unlawful
7 practice of medicine in this state or elsewhere;

8 (16) performs or procures a criminal abortion, aids or
9 abets in the procuring of a criminal abortion, attempts to perform
10 or procure a criminal abortion, or attempts to aid or abet the
11 performance or procurement of a criminal abortion;

12 (17) directly or indirectly aids or abets the practice
13 of medicine by a person, partnership, association, or corporation
14 that is not licensed to practice medicine by the board;

15 (18) performs or induces or attempts to perform or
16 induce an abortion on a woman who is pregnant with a preborn [~~viable~~
17 ~~unborn~~] child during the third trimester of the pregnancy unless[+

18 [~~(A)~~] the abortion is necessary due to a medical
19 emergency, as defined by Section 171.002, Health and Safety Code
20 [~~to prevent the death of the woman,~~

21 [~~(B) the viable unborn child has a severe,~~
22 ~~irreversible brain impairment, or~~

23 [~~(C) the woman is diagnosed with a significant~~
24 ~~likelihood of suffering imminent severe, irreversible brain damage~~
25 ~~or imminent severe, irreversible paralysis];~~

26 (19) performs or induces or attempts to perform or
27 induce an abortion on an unemancipated minor without the written

1 consent of the child's parent, managing conservator, or legal
2 guardian or without a court order, as provided by Section 33.003 or
3 33.004, Family Code, unless the abortion is necessary due to a
4 medical emergency, as defined by Section 171.002, Health and Safety
5 Code;

6 (20) otherwise performs or induces or attempts to
7 perform or induce an abortion on an unemancipated minor in
8 violation of Chapter 33, Family Code;

9 (21) performs or induces or attempts to perform or
10 induce an abortion in violation of Subchapter C, F, or G, Chapter
11 171, Health and Safety Code; [~~or~~]

12 (22) in complying with the procedures outlined in
13 Sections 166.045 and 166.046, Health and Safety Code, wilfully
14 fails to make a reasonable effort to transfer a patient to a
15 physician who is willing to comply with a directive; or

16 (23) performs or induces or attempts to perform or
17 induce an abortion or engages in other conduct in violation of
18 Section 170.052, Health and Safety Code.

19 SECTION 2.17. Section 164.055(b), Occupations Code, is
20 amended to read as follows:

21 (b) The sanctions provided by Subsection (a) are in addition
22 to any other grounds for refusal to admit persons to examination
23 under this subtitle or to issue a license or renew a license to
24 practice medicine under this subtitle. The criminal penalties
25 provided by Section 165.152 do not apply to a violation of Section
26 170.002 or 170.052, Health and Safety Code, or Subchapter C, F, or
27 G, Chapter 171, Health and Safety Code.

1 SECTION 2.18. The following provisions of the Health and
2 Safety Code are repealed:

- 3 (1) Section 170.001(3);
- 4 (2) Sections 171.042(1) and (2);
- 5 (3) Section 171.046(c); and
- 6 (4) Sections 285.202(a-1) and (a-2).

7 ARTICLE 3. PROVISIONS EFFECTIVE SEPTEMBER 1, 2023, OR EARLIER

8 SECTION 3.01. Chapter 171, Health and Safety Code, is
9 amended by adding Subchapter H to read as follows:

10 SUBCHAPTER H. DETECTION OF FETAL HEARTBEAT

11 Sec. 171.201. DEFINITIONS. In this subchapter:

12 (1) "Fetal heartbeat" means cardiac activity or the
13 steady and repetitive rhythmic contraction of the fetal heart
14 within the gestational sac.

15 (2) "Gestational age" means the amount of time that
16 has elapsed from the first day of a woman's last menstrual period.

17 (3) "Gestational sac" means the structure comprising
18 the extraembryonic membranes that envelop the preborn child and
19 that is typically visible by ultrasound after the fourth week of
20 pregnancy.

21 (4) "Physician" means an individual licensed to
22 practice medicine in this state, including a medical doctor and a
23 doctor of osteopathic medicine.

24 (5) "Preborn child" means a human fetus or embryo in
25 any stage of gestation from fertilization until birth.

26 (6) "Pregnancy" means the human female reproductive
27 condition that:

1 (A) begins with fertilization;

2 (B) occurs when the woman is carrying the
3 developing human offspring; and

4 (C) is calculated from the first day of the
5 woman's last menstrual period.

6 (7) "Standard medical practice" means the degree of
7 skill, care, and diligence that an obstetrician of ordinary
8 judgment, learning, and skill would employ in like circumstances.

9 Sec. 171.202. LEGISLATIVE FINDINGS. The legislature finds,
10 according to contemporary medical research, that:

11 (1) fetal heartbeat has become a key medical predictor
12 that a preborn child will reach live birth;

13 (2) cardiac activity begins at a biologically
14 identifiable moment in time, normally when the fetal heart is
15 formed in the gestational sac;

16 (3) Texas has compelling interests from the outset of
17 a woman's pregnancy in protecting the health of the woman and the
18 life of the preborn child; and

19 (4) to make an informed choice about whether to
20 continue her pregnancy, the pregnant woman has a compelling
21 interest in knowing the likelihood of her preborn child surviving
22 to full-term birth based on the presence of cardiac activity.

23 Sec. 171.203. DETERMINATION OF PRESENCE OF FETAL HEARTBEAT
24 REQUIRED; RECORD. (a) For the purposes of determining the presence
25 of a fetal heartbeat under this section, "standard medical
26 practice" includes employing the appropriate means of detecting the
27 heartbeat based on the estimated gestational age of the preborn

1 child and the condition of the woman and her pregnancy.

2 (b) Except as provided by Section 171.205, a physician may
3 not knowingly perform or induce an abortion on a pregnant woman
4 unless the physician has determined, in accordance with this
5 section, whether the woman's preborn child has a detectable fetal
6 heartbeat.

7 (c) In making a determination under Subsection (b), the
8 physician must use a test that is:

9 (1) consistent with the physician's good faith and
10 reasonable understanding of standard medical practice;

11 (2) consistent with rules adopted under this
12 subchapter; and

13 (3) appropriate for the estimated gestational age of
14 the preborn child and the condition of the pregnant woman and her
15 pregnancy.

16 (d) A physician making a determination under Subsection (b)
17 shall record in the pregnant woman's medical record:

18 (1) the estimated gestational age of the preborn
19 child;

20 (2) the method used to estimate the gestational age;
21 and

22 (3) the test used for detecting a fetal heartbeat,
23 including the date, time, and results of the test.

24 (e) The executive commissioner may adopt rules specifying
25 the appropriate tests to be used in determining the presence of a
26 fetal heartbeat based on standard medical practice, subject to
27 Section 171.208.

1 Sec. 171.204. PROHIBITED ABORTION OF PREBORN CHILD WITH
2 DETECTABLE FETAL HEARTBEAT; EFFECT. (a) Except as provided by
3 Section 171.205, a physician may not knowingly perform or induce an
4 abortion on a pregnant woman if the physician detected a fetal
5 heartbeat for the preborn child as required by Section 171.203 or
6 failed to perform a test to detect a fetal heartbeat.

7 (b) A physician does not violate this section if the
8 physician performed a test for a fetal heartbeat as required by
9 Section 171.203 and did not detect a fetal heartbeat.

10 (c) This section does not affect:

11 (1) the provisions of this chapter that restrict or
12 regulate an abortion by a particular method or during a particular
13 stage of pregnancy; or

14 (2) any other provision of state law that regulates or
15 prohibits abortion.

16 Sec. 171.205. EXCEPTION FOR MEDICAL EMERGENCY; RECORDS.

17 (a) This subchapter does not apply if a physician believes a
18 medical emergency exists that prevents compliance with this
19 subchapter.

20 (b) A physician who performs or induces an abortion under
21 circumstances described by Subsection (a) shall make written
22 notations in the pregnant woman's medical record of:

23 (1) the physician's belief that a medical emergency
24 necessitated the abortion; and

25 (2) the medical condition of the pregnant woman that
26 prevented compliance with this subchapter.

27 (c) A physician performing or inducing an abortion under

1 this section shall maintain in the physician's practice records a
2 copy of the notations made under Subsection (b).

3 Sec. 171.206. CONSTRUCTION OF SUBCHAPTER. (a) This
4 subchapter does not create or recognize a right to abortion before a
5 fetal heartbeat is detected.

6 (b) This subchapter may not be construed to:

7 (1) authorize the initiation of a cause of action
8 against or the prosecution of a woman on whom an abortion is
9 performed or induced or attempted to be performed or induced in
10 violation of this subchapter;

11 (2) wholly or partly repeal, either expressly or by
12 implication, any other statute that regulates or prohibits
13 abortion, including Chapter 6-1/2, Title 71, Revised Statutes; or

14 (3) restrict a political subdivision from regulating
15 or prohibiting abortion in a manner that is at least as stringent as
16 the laws of this state.

17 Sec. 171.207. ADMINISTRATIVE PENALTY. Except as provided
18 by Section 171.208, the Texas Medical Board shall take disciplinary
19 action under Chapter 164, Occupations Code, and shall assess an
20 administrative penalty under Subchapter A, Chapter 165,
21 Occupations Code, against any physician who violates this
22 subchapter.

23 Sec. 171.208. LIMITATIONS ON PUBLIC ENFORCEMENT. (a) This
24 subchapter may not be construed to:

25 (1) legalize the conduct prohibited by this subchapter
26 or by Chapter 6-1/2, Title 71, Revised Statutes;

27 (2) limit in any way or affect the availability of a

1 remedy established by Section 171.209; or

2 (3) limit the enforceability of any other laws that
3 regulate or prohibit abortion.

4 Sec. 171.209. CIVIL LIABILITY FOR VIOLATION OR AIDING OR
5 ABETTING VIOLATION. (a) Any person, other than an officer or
6 employee of a state or local governmental entity in this state, may
7 bring a civil action against a person who violates this subchapter
8 or commits an offense under Section 171.204.

9 (b) If a claimant prevails in an action brought under this
10 section, the court shall award:

11 (1) injunctive relief;

12 (2) statutory damages in an amount of not less than
13 \$10,000 for each violation or offense; and

14 (3) costs and attorney's fees.

15 (c) Notwithstanding Subsection (b), a court may not award
16 relief under this section in response to a violation of this
17 subchapter or an offense under Section 171.204 if the defendant
18 demonstrates that the defendant previously paid statutory damages
19 in a previous action for that particular violation or offense.

20 (d) Notwithstanding Chapter 16, Civil Practice and Remedies
21 Code, a person may bring an action under this section not later than
22 the sixth anniversary of the date the cause of action accrues.

23 (e) The following are not a defense to an action brought
24 under this section:

25 (1) ignorance or mistake of law;

26 (2) a defendant's belief that the requirements of this
27 subchapter are unconstitutional or were unconstitutional;

1 (3) a defendant's reliance on any court decision that
2 has been overruled by the applicable final appellate court, even if
3 that court decision had not been overruled when the defendant
4 engaged in conduct that violates this subchapter or constitutes an
5 offense under Section 171.204 or

6 (4) the consent of the preborn child's mother to the
7 abortion.

8 (f) Notwithstanding any other law, this state, a state
9 official, or a district or county attorney may not intervene in an
10 action brought under this section. This subsection does not
11 prohibit a person described by this subsection from filing an
12 amicus curiae brief in the action.

13 (g) Notwithstanding any other law, a court may not award
14 costs or attorney's fees under the Texas Rules of Civil Procedure or
15 any other rule adopted by the supreme court under Section 22.004,
16 Government Code, to a defendant in an action brought under this
17 section.

18 Sec. 171.210. CIVIL LIABILITY: UNDUE BURDEN DEFENSE
19 LIMITATIONS. (a) A defendant against whom an action is brought
20 under Section 171.209 does not have standing to assert the rights of
21 women seeking an abortion as a defense to liability under that
22 section unless the United States Supreme Court holds that the
23 courts of this state must confer standing on that defendant to
24 assert the third-party rights of women seeking an abortion in state
25 court as a matter of federal constitutional law.

26 (b) A defendant in an action brought under Section 171.209
27 may assert an affirmative defense to liability only if:

1 (1) the defendant has standing to assert the
2 third-party rights of women seeking an abortion in accordance with
3 Subsection (a); and

4 (2) the defendant demonstrates that the relief sought
5 by the claimant will impose an undue burden on women seeking an
6 abortion.

7 (c) A court may not find an undue burden under Subsection
8 (b) unless the defendant introduces evidence proving that:

9 (1) an award of relief will prevent an identifiable
10 woman or an identifiable group of women from obtaining an abortion;
11 or

12 (2) an award of relief will place a substantial
13 obstacle in the path of an identifiable woman or an identifiable
14 group of women who are seeking an abortion.

15 (d) A defendant may not establish an undue burden under this
16 section by:

17 (1) merely demonstrating that an award of relief will
18 prevent women from obtaining support or assistance, financial or
19 otherwise, from others in their effort to obtain an abortion; or

20 (2) arguing or attempting to demonstrate that an award
21 of relief against other defendants or other potential defendants
22 will impose an undue burden on women seeking an abortion.

23 (e) The affirmative defense under Subsection (b) is not
24 available if the United States Supreme Court overrules *Roe v. Wade*,
25 410 U.S. 113 (1973) or *Planned Parenthood v. Casey*, 505 U.S. 833
26 (1992), regardless of whether the conduct on which the cause of
27 action is based under Section 171.209 occurred before the Supreme

1 Court overruled either of those decisions.

2 Sec. 171.211. CIVIL LIABILITY: VENUE. Notwithstanding any
3 other law, including Section 15.002, Civil Practice and Remedies
4 Code, a civil action brought under Section 171.209 shall be brought
5 in:

6 (1) the county in which all or a substantial part of
7 the events or omissions giving rise to the claim occurred;

8 (2) the county of residence for any one of the natural
9 person defendants at the time the cause of action accrued;

10 (3) the county of the principal office in this state of
11 any one of the defendants that is not a natural person; or

12 (4) the county of residence for the claimant if the
13 claimant is a natural person residing in this state.

14 Sec. 171.212. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL
15 IMMUNITY PRESERVED. (a) This section prevails over any
16 conflicting law, including:

17 (1) the Uniform Declaratory Judgments Act; and

18 (2) Chapter 37, Civil Practice and Remedies Code.

19 (b) This state has sovereign immunity, a political
20 subdivision has governmental immunity, and each officer and
21 employee of this state or a political subdivision has official
22 immunity in any action, claim, or counterclaim or any type of legal
23 or equitable action that challenges the validity of any provision
24 or application of this subchapter, on constitutional grounds or
25 otherwise.

26 (c) A provision of state law may not be construed to waive or
27 abrogate an immunity described by Subsection (b) unless it

1 expressly waives immunity under this section.

2 Sec. 171.213. SEVERABILITY. (a) Mindful of *Leavitt v. Jane*
3 *L.*, 518 U.S. 137 (1996), in which in the context of determining the
4 severability of a state statute regulating abortion the United
5 States Supreme Court held that an explicit statement of legislative
6 intent is controlling, it is the intent of the legislature that
7 every provision, section, subsection, sentence, clause, phrase, or
8 word in this subchapter, and every application of the provisions in
9 this subchapter, are severable from each other.

10 (b) If any application of any provision in this subchapter
11 to any person, group of persons, or circumstances is found by a
12 court to be invalid or unconstitutional, the remaining applications
13 of that provision to all other persons and circumstances shall be
14 severed and may not be affected. All constitutionally valid
15 applications of this subchapter shall be severed from any
16 applications that a court finds to be invalid, leaving the valid
17 applications in force, because it is the legislature's intent and
18 priority that the valid applications be allowed to stand alone.
19 Even if a reviewing court finds a provision of this subchapter to
20 impose an undue burden in a large or substantial fraction of
21 relevant cases, the applications that do not present an undue
22 burden shall be severed from the remaining provisions and shall
23 remain in force, and shall be treated as if the legislature had
24 enacted a statute limited to the persons, group of persons, or
25 circumstances for which the statute's application does not present
26 an undue burden.

27 (c) The legislature further declares that it would have

1 enacted this subchapter, and each provision, section, subsection,
2 sentence, clause, phrase, or word, and all constitutional
3 applications of this subchapter, irrespective of the fact that any
4 provision, section, subsection, sentence, clause, phrase, or word,
5 or applications of this subchapter, were to be declared
6 unconstitutional or to represent an undue burden.

7 (d) If any provision of this subchapter is found by any
8 court to be unconstitutionally vague, then the applications of that
9 provision that do not present constitutional vagueness problems
10 shall be severed and remain in force.

11 (e) No court may decline to enforce the severability
12 requirements of Subsections (a), (b), (c), and (d) on the ground
13 that severance would rewrite the statute or involve the court in
14 legislative or lawmaking activity. A court that declines to
15 enforce or enjoins a state official from enforcing a statutory
16 provision does not rewrite a statute, as the statute continues to
17 contain the same words as before the court's decision. A judicial
18 injunction or declaration of unconstitutionality:

19 (1) is nothing more than an edict prohibiting
20 enforcement that may subsequently be vacated by a later court if
21 that court has a different understanding of the requirements of the
22 Texas Constitution or United States Constitution;

23 (2) is not a formal amendment of the language in a
24 statute; and

25 (3) no more rewrites a statute than a decision by the
26 executive not to enforce a duly enacted statute in a limited and
27 defined set of circumstances.

1 (f) If any federal or state court declares unconstitutional
2 or enjoins the enforcement of a provision in this subchapter and
3 fails to enforce the severability requirements of Subsections (a),
4 (b), (c), (d), and (e), the executive commissioner shall:

5 (1) adopt rules that enforce the requirements
6 described by this subchapter to the maximum possible extent while
7 avoiding the constitutional problems or other problems identified
8 by the federal or state court; and

9 (2) issue notice of those rules, not later than the
10 30th day after the date of the court ruling.

11 (g) If the executive commissioner fails to adopt the rules
12 and issue notice under Subsection (f), a person may petition for a
13 writ of mandamus requiring the executive commissioner to adopt the
14 rules and issue notice.

15 SECTION 3.02. Chapter 30, Civil Practice and Remedies Code,
16 is amended by adding Section 30.022 to read as follows:

17 Sec. 30.022. AWARD OF ATTORNEY'S FEES IN ACTIONS
18 CHALLENGING ABORTION LAWS. (a) Notwithstanding any other law, any
19 person, including an entity, attorney, or law firm, who seeks
20 declaratory or injunctive relief to prevent this state, a political
21 subdivision, or any governmental entity or public official in this
22 state from enforcing any statute, ordinance, rule, regulation, or
23 any other type of law that regulates or restricts abortion or that
24 limits taxpayer funding for individuals or entities that perform or
25 promote abortions, in any state or federal court, or that
26 represents any litigant seeking such relief in any state or federal
27 court, is jointly and severally liable to pay the costs and

1 attorney's fees of the prevailing party.

2 (b) For purposes of this section, a party is considered a
3 prevailing party if a state or federal court:

4 (1) dismisses any claim or cause of action brought
5 against the party that seeks the declaratory or injunctive relief
6 described by Subsection (a), regardless of the reason for the
7 dismissal; or

8 (2) enters judgment in the party's favor on any such
9 claim or cause of action.

10 (c) Regardless of whether a prevailing party sought to
11 recover costs or attorney's fees in the underlying action, a
12 prevailing party under this section may bring a civil action to
13 recover costs and attorney's fees against a person, including an
14 entity, attorney, or law firm, that sought declaratory or
15 injunctive relief described by Subsection (a) not later than the
16 third anniversary of the date on which, as applicable:

17 (1) the dismissal or judgment described by Subsection
18 (b) becomes final on the conclusion of appellate review; or

19 (2) the time for seeking appellate review expires.

20 (d) It is not a defense to an action brought under
21 Subsection (c) that:

22 (1) a prevailing party under this section failed to
23 seek recovery of costs or attorney's fees in the underlying action;
24 and

25 (2) the court in the underlying action declined to
26 recognize or enforce the requirements of this section.

27 SECTION 3.03. Article 12.01, Code of Criminal Procedure, is

1 amended to read as follows:

2 Art. 12.01. FELONIES. Except as provided in Article 12.03,
3 felony indictments may be presented within these limits, and not
4 afterward:

5 (1) no limitation:

6 (A) murder and manslaughter;

7 (B) sexual assault under Section 22.011(a)(2),
8 Penal Code, or aggravated sexual assault under Section
9 22.021(a)(1)(B), Penal Code;

10 (C) sexual assault, if:

11 (i) during the investigation of the offense
12 biological matter is collected and the matter:

13 (a) has not yet been subjected to
14 forensic DNA testing; or

15 (b) has been subjected to forensic DNA
16 testing and the testing results show that the matter does not match
17 the victim or any other person whose identity is readily
18 ascertained; or

19 (ii) probable cause exists to believe that
20 the defendant has committed the same or a similar sex offense
21 against five or more victims;

22 (D) continuous sexual abuse of young child or
23 children under Section 21.02, Penal Code;

24 (E) indecency with a child under Section 21.11,
25 Penal Code;

26 (F) an offense involving leaving the scene of an
27 accident under Section 550.021, Transportation Code, if the

1 accident resulted in the death of a person;

2 (G) trafficking of persons under Section
3 20A.02(a)(7) or (8), Penal Code;

4 (H) continuous trafficking of persons under
5 Section 20A.03, Penal Code; or

6 (I) compelling prostitution under Section
7 43.05(a)(2), Penal Code;

8 (2) ten years from the date of the commission of the
9 offense:

10 (A) theft of any estate, real, personal or mixed,
11 by an executor, administrator, guardian or trustee, with intent to
12 defraud any creditor, heir, legatee, ward, distributee,
13 beneficiary or settlor of a trust interested in such estate;

14 (B) theft by a public servant of government
15 property over which the public servant exercises control in the
16 public servant's official capacity;

17 (C) forgery or the uttering, using or passing of
18 forged instruments;

19 (D) injury to an elderly or disabled individual
20 punishable as a felony of the first degree under Section 22.04,
21 Penal Code;

22 (E) sexual assault, except as provided by
23 Subdivision (1) or (7);

24 (F) arson;

25 (G) trafficking of persons under Section
26 20A.02(a)(1), (2), (3), or (4), Penal Code; or

27 (H) compelling prostitution under Section

1 43.05(a)(1), Penal Code;

2 (3) seven years from the date of the commission of the
3 offense:

4 (A) misapplication of fiduciary property or
5 property of a financial institution;

6 (B) securing execution of document by deception;

7 (C) a felony violation under Chapter 162, Tax
8 Code;

9 (D) false statement to obtain property or credit
10 under Section 32.32, Penal Code;

11 (E) money laundering;

12 (F) credit card or debit card abuse under Section
13 32.31, Penal Code;

14 (G) fraudulent use or possession of identifying
15 information under Section 32.51, Penal Code;

16 (H) exploitation of a child, elderly individual,
17 or disabled individual under Section 32.53, Penal Code;

18 (I) health care fraud under Section 35A.02, Penal
19 Code; or

20 (J) bigamy under Section 25.01, Penal Code,
21 except as provided by Subdivision (6);

22 (4) five years from the date of the commission of the
23 offense:

24 (A) theft or robbery;

25 (B) except as provided by Subdivision (5),
26 kidnapping or burglary;

27 (C) injury to an elderly or disabled individual

1 that is not punishable as a felony of the first degree under Section
2 [22.04](#), Penal Code;

3 (D) abandoning or endangering a child; [~~or~~]

4 (E) insurance fraud; or

5 (F) offenses related to the performance or
6 inducement of an abortion under Section 171.204, Health and Safety
7 Code;

8 (5) if the investigation of the offense shows that the
9 victim is younger than 17 years of age at the time the offense is
10 committed, 20 years from the 18th birthday of the victim of one of
11 the following offenses:

12 (A) sexual performance by a child under Section
13 [43.25](#), Penal Code;

14 (B) aggravated kidnapping under Section
15 [20.04\(a\)\(4\)](#), Penal Code, if the defendant committed the offense
16 with the intent to violate or abuse the victim sexually; or

17 (C) burglary under Section [30.02](#), Penal Code, if
18 the offense is punishable under Subsection (d) of that section and
19 the defendant committed the offense with the intent to commit an
20 offense described by Subdivision (1)(B) or (D) of this article or
21 Paragraph (B) of this subdivision;

22 (6) ten years from the 18th birthday of the victim of
23 the offense:

24 (A) trafficking of persons under Section
25 [20A.02\(a\)\(5\)](#) or (6), Penal Code;

26 (B) injury to a child under Section [22.04](#), Penal
27 Code; or

1 (C) bigamy under Section 25.01, Penal Code, if
2 the investigation of the offense shows that the person, other than
3 the legal spouse of the defendant, whom the defendant marries or
4 purports to marry or with whom the defendant lives under the
5 appearance of being married is younger than 18 years of age at the
6 time the offense is committed;

7 (7) two years from the date the offense was
8 discovered: sexual assault punishable as a state jail felony under
9 Section 22.011(f)(2), Penal Code; or

10 (8) three years from the date of the commission of the
11 offense: all other felonies.

12 SECTION 3.04. Subchapter C, Chapter 311, Government Code,
13 is amended by adding Section 311.036 to read as follows:

14 Sec. 311.036. CONSTRUCTION OF ABORTION STATUTES. (a) A
15 statute that regulates or prohibits abortion may not be construed
16 to repeal any other statute that regulates or prohibits abortion,
17 either wholly or partly, unless the repealing statute explicitly
18 states that it is repealing the other statute.

19 (b) A statute that regulates or prohibits abortion may not
20 be construed to restrict a political subdivision from regulating or
21 prohibiting abortion in a manner that is at least as stringent as
22 the laws of this state unless the statute explicitly states that
23 political subdivisions are prohibited from regulating or
24 prohibiting abortion in the manner described by the statute.

25 (c) Every statute that regulates or prohibits abortion is
26 severable in each of its applications to every person and
27 circumstance. If any statute that regulates or prohibits abortion

1 is found by any court to be unconstitutional, either on its face or
2 as applied, then all applications of that statute that do not
3 violate the constitutional rights of women seeking abortions shall
4 be severed from the unconstitutional applications and shall remain
5 enforceable, notwithstanding any other law.

6 SECTION 3.05. Section 171.012, Health and Safety Code, is
7 amended by amending Subsection (a) and adding Subsection (i) to
8 read as follows:

9 (a) Consent to an abortion is voluntary and informed only
10 if:

11 (1) the physician who is to perform or induce the
12 abortion informs the pregnant woman on whom the abortion is to be
13 performed or induced of:

14 (A) the physician's name;

15 (B) the particular medical risks associated with
16 the particular abortion procedure to be employed, including, when
17 medically accurate:

18 (i) the risks of infection and hemorrhage;

19 (ii) the potential danger to a subsequent
20 pregnancy and of infertility; and

21 (iii) the possibility of increased risk of
22 breast cancer following an induced abortion and the natural
23 protective effect of a completed pregnancy in avoiding breast
24 cancer;

25 (C) the probable gestational age of the preborn
26 [~~unborn~~] child at the time the abortion is to be performed or
27 induced; [~~and~~]

1 (D) the medical risks associated with carrying
2 the preborn child to term; and

3 (E) the state law prohibiting abortion of a
4 preborn child solely based on the preborn child's race, ethnicity,
5 sex, or disability, as defined by Section 170.051, including a
6 probability of diagnosis that the child has a disability;

7 (2) the physician who is to perform or induce the
8 abortion or the physician's agent informs the pregnant woman that:

9 (A) medical assistance benefits may be available
10 for prenatal care, childbirth, and neonatal care;

11 (B) the father is liable for assistance in the
12 support of the child without regard to whether the father has
13 offered to pay for the abortion; and

14 (C) public and private agencies provide
15 pregnancy prevention counseling and medical referrals for
16 obtaining pregnancy prevention medications or devices, including
17 emergency contraception for victims of rape or incest;

18 (3) the physician who is to perform or induce the
19 abortion or the physician's agent:

20 (A) provides the pregnant woman with the printed
21 materials described by Section 171.014; and

22 (B) informs the pregnant woman that those
23 materials:

24 (i) have been provided by the commission
25 [~~Department of State Health Services~~];

26 (ii) are accessible on an Internet website
27 sponsored by the commission [~~department~~];

1 (iii) describe the preborn [~~unborn~~] child
2 and list agencies that offer alternatives to abortion; and

3 (iv) include a list of agencies that offer
4 sonogram services at no cost to the pregnant woman;

5 (4) before any sedative or anesthesia is administered
6 to the pregnant woman and at least 24 hours before the abortion or
7 at least two hours before the abortion if the pregnant woman waives
8 this requirement by certifying that she currently lives 100 miles
9 or more from the nearest abortion provider that is a facility
10 licensed under Chapter 245 or a facility that performs or induces
11 more than 50 abortions in any 12-month period:

12 (A) the physician who is to perform or induce the
13 abortion or an agent of the physician who is also a sonographer
14 certified by a national registry of medical sonographers performs a
15 sonogram on the pregnant woman on whom the abortion is to be
16 performed or induced;

17 (B) the physician who is to perform or induce the
18 abortion displays the sonogram images in a quality consistent with
19 current medical practice in a manner that the pregnant woman may
20 view them;

21 (C) the physician who is to perform or induce the
22 abortion provides, in a manner understandable to a layperson, a
23 verbal explanation of the results of the sonogram images, including
24 a medical description of the dimensions of the embryo or fetus, the
25 presence of cardiac activity, and the presence of external members
26 and internal organs; [~~and~~]

27 (D) the physician who is to perform or induce the

1 abortion or an agent of the physician who is also a sonographer
2 certified by a national registry of medical sonographers makes
3 audible the heart auscultation for the pregnant woman to hear, if
4 present, in a quality consistent with current medical practice and
5 provides, in a manner understandable to a layperson, a simultaneous
6 verbal explanation of the heart auscultation; and

7 (E) if a fetal heartbeat is detected under
8 Section 171.203, the physician who is to perform or induce the
9 abortion informs the woman in writing of the statistical
10 probability of bringing the preborn child to term:

11 (i) to the best of the physician's
12 knowledge, based on the gestational age of the preborn child; or

13 (ii) as provided by commission rule;

14 (5) before receiving a sonogram under Subdivision
15 (4)(A) and before the abortion is performed or induced and before
16 any sedative or anesthesia is administered, the pregnant woman
17 completes and certifies with her signature an election form that
18 states as follows:

19 "ABORTION AND SONOGRAM ELECTION

20 (1) THE INFORMATION AND PRINTED MATERIALS DESCRIBED BY
21 SECTIONS [171.012](#)(a)(1)-(3), TEXAS HEALTH AND SAFETY CODE, HAVE BEEN
22 PROVIDED AND EXPLAINED TO ME.

23 (2) I UNDERSTAND THE NATURE AND CONSEQUENCES OF AN
24 ABORTION.

25 (3) TEXAS LAW REQUIRES THAT I RECEIVE A SONOGRAM PRIOR
26 TO RECEIVING AN ABORTION.

27 (4) I UNDERSTAND THAT I HAVE THE OPTION TO VIEW THE

1 SONOGRAM IMAGES.

2 (5) I UNDERSTAND THAT I HAVE THE OPTION TO HEAR THE
3 HEARTBEAT.

4 (6) I UNDERSTAND THAT I AM REQUIRED BY LAW TO HEAR AN
5 EXPLANATION OF THE SONOGRAM IMAGES UNLESS I CERTIFY IN WRITING TO
6 ONE OF THE FOLLOWING:

7 ___ I AM PREGNANT AS A RESULT OF A SEXUAL ASSAULT,
8 INCEST, OR OTHER VIOLATION OF THE TEXAS PENAL CODE THAT HAS BEEN
9 REPORTED TO LAW ENFORCEMENT AUTHORITIES OR THAT HAS NOT BEEN
10 REPORTED BECAUSE I REASONABLY BELIEVE THAT DOING SO WOULD PUT ME AT
11 RISK OF RETALIATION RESULTING IN SERIOUS BODILY INJURY.

12 ___ I AM A MINOR AND OBTAINING AN ABORTION IN ACCORDANCE
13 WITH JUDICIAL BYPASS PROCEDURES UNDER CHAPTER 33, TEXAS FAMILY
14 CODE.

15 ___ MY PREBORN CHILD [~~FETUS~~] HAS AN IRREVERSIBLE
16 MEDICAL CONDITION OR ABNORMALITY, AS IDENTIFIED BY RELIABLE
17 DIAGNOSTIC PROCEDURES AND DOCUMENTED IN MY MEDICAL FILE.

18 (7) I AM MAKING THIS ELECTION OF MY OWN FREE WILL AND
19 WITHOUT COERCION.

20 (8) FOR A WOMAN WHO LIVES 100 MILES OR MORE FROM THE
21 NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED UNDER CHAPTER
22 245, TEXAS HEALTH AND SAFETY CODE, OR A FACILITY THAT PERFORMS OR
23 INDUCES MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD ONLY:

24 I CERTIFY THAT, BECAUSE I CURRENTLY LIVE 100 MILES OR
25 MORE FROM THE NEAREST ABORTION PROVIDER THAT IS A FACILITY LICENSED
26 UNDER CHAPTER 245, TEXAS HEALTH AND SAFETY CODE, OR A FACILITY THAT
27 PERFORMS OR INDUCES MORE THAN 50 ABORTIONS IN ANY 12-MONTH PERIOD, I

1 WAIVE THE REQUIREMENT TO WAIT 24 HOURS AFTER THE SONOGRAM IS
2 PERFORMED BEFORE RECEIVING THE ABORTION PROCEDURE. MY PLACE OF
3 RESIDENCE IS:_____.

4 _____

5 SIGNATURE DATE";

6 (6) before the abortion is performed or induced, the
7 physician who is to perform or induce the abortion receives a copy
8 of the signed, written certification required by Subdivision (5);
9 and

10 (7) the pregnant woman is provided the name of each
11 person who provides or explains the information required under this
12 subsection.

13 (i) The executive commissioner may adopt rules that specify
14 the information required under Subsection (a)(4)(E) regarding the
15 statistical probability of bringing a preborn child to term based
16 on the gestational age of the child. The information in the rules
17 must be based on available medical evidence.

18 SECTION 3.06. Section 245.011(c), Health and Safety Code,
19 is amended to read as follows:

20 (c) The report must include:

21 (1) whether the abortion facility at which the
22 abortion is performed or induced is licensed under this chapter;

23 (2) the patient's year of birth, race, marital status,
24 and state and county of residence;

25 (3) the type of abortion procedure;

26 (4) the date the abortion was performed or induced;

27 (5) whether the patient survived the abortion, and if

1 the patient did not survive, the cause of death;

2 (6) the probable post-fertilization age of the preborn
3 ~~[unborn]~~ child based on the best medical judgment of the attending
4 physician at the time of the procedure;

5 (7) the date, if known, of the patient's last menstrual
6 cycle;

7 (8) the number of previous live births of the patient;
8 ~~[and]~~

9 (9) the number of previous induced abortions of the
10 patient;

11 (10) whether the abortion was performed or induced
12 because of a medical emergency and any medical condition of the
13 pregnant woman that required the abortion;

14 (11) whether the physician made a determination of the
15 presence of a fetal heartbeat in accordance with Section 171.203;
16 and

17 (12) whether the physician performed or induced the
18 abortion under circumstances described by Section 171.205.

19 ARTICLE 4. PROVISIONS EFFECTIVE SEPTEMBER 1, 2025, OR EARLIER

20 SECTION 4.01. Chapter 170, Health and Safety Code, is
21 amended by adding Subchapter C to read as follows:

22 SUBCHAPTER C. PROHIBITION OF ABORTION

23 Sec. 170.101. ABORTION PROHIBITED. Notwithstanding any
24 other law, a person may not perform, induce, or attempt to perform
25 or induce an abortion unless the abortion is performed, induced, or
26 attempted to be performed or induced by a physician because of a
27 medical emergency as defined by Section 171.002.

1 Sec. 170.102. CIVIL REMEDY. (a) A civil action may be
2 brought against a person who violated Section 170.101 by:

3 (1) the woman on whom an abortion was performed,
4 induced, or attempted in violation of Section 170.101;

5 (2) the father of the preborn child for an abortion
6 performed, induced, or attempted on a pregnant woman in violation
7 of Section 170.101, unless the woman's pregnancy resulted from the
8 father's criminal conduct; or

9 (3) a maternal grandparent of the preborn child for an
10 abortion performed, induced, or attempted in violation of Section
11 170.101 on a pregnant woman who was less than 18 years of age at the
12 time of the violation, unless the woman's pregnancy resulted from
13 the maternal grandparent's criminal conduct.

14 (b) A person who brings an action under this section may
15 obtain:

16 (1) injunctive relief;

17 (2) damages incurred by the person, including:

18 (A) actual damages for all psychological,
19 emotional, and physical injuries resulting from the violation of
20 Section 170.101;

21 (B) court costs; and

22 (C) reasonable attorney's fees; or

23 (3) both injunctive relief and damages.

24 (c) An action for damages or injunctive relief under this
25 section must be filed:

26 (1) in a district court in the county in which the
27 woman on whom an abortion was performed, induced, or attempted in

1 violation of Section 170.101 resides; and

2 (2) not later than the sixth anniversary of the date
3 the abortion was performed, induced, or attempted in violation of
4 Section 170.101.

5 (d) The damages and injunctive relief authorized by this
6 section are in addition to any other remedy available by law.

7 (e) A civil action under this section may not be brought
8 against a woman on whom an abortion is performed, induced, or
9 attempted in violation of Section 170.101.

10 Sec. 170.103. REVOCATION OR SUSPENSION OF LICENSE. A
11 physician who violates Section 170.101 engages in unprofessional
12 conduct for which the physician's license may be suspended or
13 revoked under Chapter 164, Occupations Code.

14 SECTION 4.02. Section 19.06, Penal Code, is amended to read
15 as follows:

16 Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT.
17 Notwithstanding any other law, this [This] chapter applies [does
18 not apply] to the death of a preborn [~~an unborn~~] child unless [if]
19 the conduct charged is:

20 (1) conduct committed by the mother of the preborn
21 [~~unborn~~] child; or

22 (2) an abortion performed, induced, or attempted to be
23 performed or induced by a physician because of a medical emergency
24 as defined by Section 171.002, Health and Safety Code [a lawful
25 medical procedure performed by a physician or other licensed health
26 care provider with the requisite consent, if the death of the unborn
27 child was the intended result of the procedure;

1 ~~[(3) a lawful medical procedure performed by a~~
2 ~~physician or other licensed health care provider with the requisite~~
3 ~~consent as part of an assisted reproduction as defined by Section~~
4 ~~160.102, Family Code, or~~

5 ~~[(4) the dispensation of a drug in accordance with law~~
6 ~~or administration of a drug prescribed in accordance with law].~~

7 SECTION 4.03. Section 22.12, Penal Code, is amended to read
8 as follows:

9 Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT.
10 Notwithstanding any other law, this ~~[This]~~ chapter applies ~~[does~~
11 ~~not apply]~~ to conduct charged as having been committed against an
12 individual who is a preborn ~~[an unborn]~~ child unless ~~[if]~~ the
13 conduct is:

14 (1) committed by the mother of the preborn ~~[unborn]~~
15 child; or

16 (2) an abortion performed, induced, or attempted to be
17 performed or induced by a physician because of a medical emergency
18 as defined by Section 171.002, Health and Safety Code ~~[a lawful~~
19 ~~medical procedure performed by a physician or other health care~~
20 ~~provider with the requisite consent,~~

21 ~~[(3) a lawful medical procedure performed by a~~
22 ~~physician or other licensed health care provider with the requisite~~
23 ~~consent as part of an assisted reproduction as defined by Section~~
24 ~~160.102, Family Code, or~~

25 ~~[(4) the dispensation of a drug in accordance with law~~
26 ~~or administration of a drug prescribed in accordance with law].~~

27 SECTION 4.04. The following provisions are repealed:

1 (1) Section 33.002(b), Family Code; and

2 (2) Section 171.063(b), Health and Safety Code.

3 SECTION 4.05. (a) Subchapter C, Chapter 170, Health and
4 Safety Code, as added by this article, and Sections 19.06 and 22.12,
5 Penal Code, as amended by this article, shall be construed, as a
6 matter of state law, to be enforceable to the maximum possible
7 extent consistent with but not further than federal constitutional
8 requirements, even if that construction is not readily apparent, as
9 such constructions are authorized only to the extent necessary to
10 save the subchapter from judicial invalidation. Judicial
11 reformation of statutory language is explicitly authorized only to
12 the extent necessary to save the statutory provision from
13 invalidity.

14 (b) If any court determines that a provision described by
15 Subsection (a) of this section is unconstitutionally vague, the
16 court shall interpret the provision, as a matter of state law, to
17 avoid the vagueness problem and shall enforce the provision to the
18 maximum possible extent. If a federal court finds any provision
19 described by Subsection (a) of this section or its application to
20 any person, group of persons, or circumstances to be
21 unconstitutionally vague and declines to impose the saving
22 construction described by this section, the Texas Supreme Court
23 shall provide an authoritative construction of the objectionable
24 statutory provisions that avoids the constitutional problems while
25 enforcing the statute's restrictions to the maximum possible extent
26 and shall agree to answer any question certified from a federal
27 appellate court regarding the statute.

1 (c) An executive or administrative state official may not
2 decline to enforce a provision described by Subsection (a) of this
3 section, or adopt a construction of that provision or this section
4 in a way that narrows its applicability, based on the official's own
5 beliefs concerning the requirements of the state or federal
6 constitution, unless the official is enjoined by a state or federal
7 court from enforcing that provision.

8 (d) Sections 19.06 and 22.12, Penal Code, as amended by this
9 article, may not be construed to authorize the prosecution of or a
10 cause of action to be brought against a woman on whom an abortion is
11 performed, induced, or attempted to be performed or induced in
12 violation of Section 170.101, Health and Safety Code, as added by
13 this article.

14 ARTICLE 5. TRANSITIONS, SEVERABILITY, PREEMPTION,
15 CONSTITUTIONALITY, AND EFFECTIVE DATE

16 SECTION 5.01. Not later than December 1, 2021:

17 (1) the Health and Human Services Commission shall:

18 (A) develop the perinatal palliative care
19 informational materials, list of perinatal palliative care
20 providers and programs, and perinatal palliative care
21 certification form required by Subchapter X, Chapter 161, Health
22 and Safety Code, as added by this Act; and

23 (B) update any forms and informational materials
24 under Subchapter B, Chapter 171, Health and Safety Code, as amended
25 by this Act; and

26 (2) the executive commissioner of the Health and Human
27 Services Commission shall adopt any rules necessary to implement

1 Subchapter X, Chapter 161, Health and Safety Code, as added by this
2 Act, and Subchapter B, Chapter 171, Health and Safety Code, as
3 amended by this Act.

4 SECTION 5.02. (a) Subchapter X, Chapter 161, Health and
5 Safety Code, as added by this Act, applies only to a diagnosis of a
6 life-threatening disability of a pregnant woman's preborn child
7 made on or after January 1, 2022.

8 (b) Chapter 170, Health and Safety Code, as added by this
9 Act, Subchapters B and C, Chapter 171, Health and Safety Code, as
10 amended by this Act, and Chapter 164, Occupations Code, as amended
11 by this Act, apply only to an abortion performed, induced, or
12 attempted to be performed or induced or other conduct that occurred
13 on or after January 1, 2022. An abortion performed, induced, or
14 attempted to be performed or induced or other conduct that occurred
15 before that date is governed by the law in effect immediately before
16 the effective date of this Act, and that law is continued in effect
17 for that purpose.

18 (c) Subchapter C, Chapter 170, Health and Safety Code, as
19 added by this Act, applies only to an abortion that is performed,
20 induced, or attempted to be performed or induced on or after the
21 effective date of Article 4 of this Act.

22 (d) Sections 19.06 and 22.12, Penal Code, as amended by this
23 Act, apply only to conduct that occurs on or after the effective
24 date of Article 4 of this Act. Conduct that occurs before that date
25 is governed by the law in effect on the date the conduct occurred,
26 and that law is continued in effect for that purpose.

27 (e) Sections 19.06 and 22.12, Penal Code, as amended by this

1 Act, apply only to an offense committed on or after the effective
2 date of Article 4 of this Act. An offense committed before that date
3 is governed by the law in effect when the offense was committed, and
4 the former law is continued in effect for that purpose. For purposes
5 of this subsection, an offense is committed before the effective
6 date of Article 4 of this Act if any element of the offense occurs
7 before that date.

8 SECTION 5.03. (a) It is the intent of the legislature that
9 if a court suspends enforcement of any provision of this Act, the
10 suspension is not to be regarded as repealing that provision.

11 (b) If any provision of this Act is held invalid or if the
12 application of any provision to any person or circumstance is held
13 invalid, the invalidity of that provision or application does not
14 affect any other provision or application of this Act that can be
15 given effect without the invalid provision or application, and to
16 this end, the provisions of this Act are severable. It is the
17 intent of the legislature that any invalidity or potential
18 invalidity of a provision of this Act does not impair the immediate
19 and continuing enforceability of the remaining provisions. It is
20 furthermore the intent of the legislature that the provisions of
21 this Act do not have the effect of repealing or limiting any other
22 laws of this state.

23 (c) The legislature intends that each provision of this Act
24 as applicable to each individual woman is severable from each other
25 provision of this Act. In the unexpected event that a court finds
26 the application of any provision of this Act to impose an
27 impermissible undue burden on any pregnant woman or group of

1 pregnant women, the application of the provision to those women is
2 severed from the application of the remaining provisions of this
3 Act that do not impose an undue burden, and those remaining
4 applications remain in force and unaffected, consistent with
5 Section 5.02 of this article.

6 SECTION 5.04. (a) After the issuance of a decision by the
7 United States Supreme Court overruling any prior ruling that
8 prohibits states from wholly or partly prohibiting abortion, the
9 issuance of any court order or judgment restoring, expanding, or
10 clarifying the authority of states to wholly or partly prohibit or
11 regulate abortion, or the effective date of an amendment to the
12 United States Constitution restoring, expanding, or clarifying the
13 authority of states to wholly or partly prohibit or regulate
14 abortion, the attorney general may apply to the appropriate state
15 or federal court for:

16 (1) a declaration that any one or more provisions of
17 this Act are constitutional; or

18 (2) a judgment or order lifting an injunction against
19 the enforcement of any one or more provisions of this Act.

20 (b) If the attorney general fails to apply for the relief
21 described by Subsection (a) of this section not later than the 30th
22 day after the date an event described by that subsection occurs, any
23 district attorney may apply to the appropriate state or federal
24 court for the relief described by that subsection.

25 SECTION 5.05. (a) Except as otherwise provided by this
26 section, this Act takes effect September 1, 2021.

27 (b) Article 3 of this Act takes effect the earlier of:

1 (1) the 91st day after the date the attorney general
2 submits a report required by Section 402.003, Government Code, that
3 states a court of competent jurisdiction has held the provisions in
4 Article 3 of this Act to be constitutional; or

5 (2) September 1, 2023.

6 (c) Article 4 of this Act takes effect the earlier of:

7 (1) the 91st day after the date the attorney general
8 submits a report required by Section 402.003, Government Code, that
9 states a court of competent jurisdiction has held the provisions in
10 Article 4 of this Act to be constitutional; or

11 (2) September 1, 2025.